

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 34

CONNECTICUT NATURAL GAS
CORPORATION

Employer

and

CONNECTICUT INDEPENDENT UTILITY
WORKERS, LOCAL 12924

Petitioner

Case No. 34-RC-2146

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board. Pursuant to Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned. Upon the entire record in this proceeding, I find that: the hearing officer's rulings are free from prejudicial error and are affirmed; the Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction; the labor organization involved claims to represent certain employees of the Employer; and a question affecting commerce exists concerning the representation of certain employees of the Employer.

The Employer is a public utility engaged in the purchase, sale and distribution of natural gas. The Petitioner currently represents a unit (herein called the production unit) consisting of the Employer's production, distribution, and commercial office employees, specifically including distribution dispatchers, but specifically excluding customer service dispatchers. The Petitioner now seeks to represent the seven customer service dispatchers and to include them in the production unit. The Employer contends that the petition must be dismissed because the customer service dispatchers are supervisors under Section 2(11) of the Act. Alternatively, if the customer service dispatchers are found not to be supervisors, the Employer contends that an election must be directed in

a separate unit. For the reasons noted below, I find that the customer service dispatchers are not supervisors, and that it is appropriate to include them in the production unit.

I. Facts

A. Background

Pursuant to a Decision and Direction of Election in Case No. 1-RC-13950, which issued on September 11, 1975, the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 671 (herein called Teamsters Local 671), was certified as the collective bargaining representative of the production unit. The only issue presented for determination by the Regional Director in Case No. 1-RC-13950 was the status of nine customer service dispatchers who the Employer sought to exclude as supervisors. In concluding that the disputed employees were not supervisors, the Regional Director found, inter alia, that “the record does not show that any of the dispatchers possess or exercise any of the indicia of supervisory status set forth in Section 2(11) of the Act.” Accordingly, the production unit certified in Case No. 1-RC-13950 included all “dispatchers”. There was no request for review of that decision.

Pursuant to a unit clarification petition in Case No. 39-UC-1, the Regional Director issued a Decision and Clarification of Bargaining Unit on May 21, 1980, in which the production unit was clarified to exclude all customer service dispatchers. This was based upon a “Stipulation of Facts” entered into by Teamsters Local 671 and the Employer, pursuant to which the responsibilities and authority of the customer service dispatchers was expanded to include the authority to, inter alia, discharge and discipline employees and to adjust employee grievances. A full list of the responsibilities and authority of the customer service dispatchers was set forth in the Regional Director’s Decision in Case No. 39-UC-1 and, based upon that list, the Regional Director concluded that “the customer service dispatchers possess statutory indicia of supervisory authority and that they are now supervisors within the meaning of the Act.” There was no request for review of that decision.

Soon thereafter, Teamsters Local 671 disclaimed interest in representing the production unit, and the Petitioner filed a petition in Case No. 39-RC-229 seeking to represent the employees in the production unit as it presently exists, specifically excluding, inter alia, the customer service dispatchers. The only issues presented for

determination by the Regional Director in the Decision and Direction of Election that issued in Case No. 39-RC-229 on September 28, 1981, involved the unit placement of clerical employees in the Customer Accounting Department, and the supervisory status of an office coordinator and two distribution dispatchers. In this regard, the Employer sought to exclude the distribution dispatchers as supervisors under the Act. The Regional Director included the distribution dispatchers in the unit because they did not exercise any of the statutory indicia of supervisory authority, did not responsibly direct employees using independent judgment, and merely coordinated the activities of other employees who receive direct field supervision from other undisputed supervisors. The Board denied the Employer's request for review of that decision. Thus, since 1981, the production unit has specifically included the distribution dispatchers, and specifically excluded the customer service dispatchers.

At an unspecified time subsequent to 1981, the title of the customer service dispatchers was changed to "dispatch supervisor", and then changed again in the 1990's to its current title, "customer service dispatch analyst" (hereinafter referred to as dispatchers). In connection with the latter change, it is undisputed that the dispatchers no longer have the authority to discipline, discharge, or evaluate employees, or to adjust employee grievances, or to effectively recommend such actions using independent judgment. It is further undisputed that dispatchers do not have the authority to hire, transfer employees to other positions, suspend, layoff, recall, promote, or reward other employees, or to effectively recommend any of these actions using independent judgment. Thus, the only remaining arguable basis for finding that the dispatchers are supervisors is their direction and assignment of work performed by employees in the production unit.

B. Overview of Operations

Primarily responsible for the Employer's overall operations is President Bob Alessio. Reporting directly to Alessio is Customer Service Vice-President Bill Reis; reporting directly to Reis is Regional Director of Operations Chris Malone; reporting to Malone is Manager of Customer Service Operations Vick Fryxell; and reporting to Fryxell is Dispatch Office Supervisor Sam Putnam, who directly supervises the seven dispatchers. Putnam works from 7:30 am to 4:00 pm, Monday through Friday.

The Employer's operations are generally divided between the distribution of natural gas to approximately 155,000 customers located within the 22 Connecticut towns in its service territory, and servicing those customers. The distribution side of the business includes the continuous maintenance and upgrade of the pipes and mains that enable the distribution of gas to its customers. Such work is performed primarily by members of the production unit, as well as outside contractors. The customer service side of the business includes responding to gas leaks; installing, changing, servicing, and reading meters; turning gas on and off; and maintaining gas appliances for individual customers. Such work is performed by service technicians and meter representatives, all of whom are members of the production unit. The dispatchers are primarily responsible for assigning and monitoring the work performed by the service technicians and meter representatives.

The dispatchers work on the second floor of the Employer's facility located at 76 Meadow St. in Hartford. At least one dispatcher must be on duty 24 hours a day, 7 days a week. On Monday through Friday, two dispatchers are scheduled for the day shift (7:00 am to 3:30 pm); two are scheduled for the evening shift (3:00 pm to 11:00 pm); and one is scheduled for the night shift (11:00 pm to 7:00 am). On weekends, one dispatcher covers each shift. In addition, one dispatcher works a "floater" shift, 8:00 am to 4:00 pm Monday through Thursday and 3:00 pm to 11:00 pm on Fridays. The floater also covers shifts for dispatchers who are on vacation or lengthy sick leave.

C. Dispatcher duties, responsibilities and terms and conditions of employment

As noted above, the dispatchers are responsible for assigning and monitoring the service and emergency work performed by approximately 55-60 service technicians and 12 meter representatives (hereinafter referred to as service employees). In monitoring such work, they have no involvement in or oversight of the actual work performed by the service employees. They do not instruct or direct service employees to perform particular tasks, nor do they transmit information to the service employees as to how they should perform their work. Rather, any such oversight and direction is provided by Customer Service Supervisors, to whom the service employees directly report. Thus, the dispatchers job is to initially assign service and emergency work (herein also referred to as work orders) to the service employees; monitor the progress of the work,

in terms of time, performed on each work order; assign service employees to new work orders and emergency calls, i.e., gas leaks, during the course of the shift as such orders and calls are received; and generally insure that all work is performed within certain proscribed time parameters and with a minimum of overtime.

With regard to the latter, the State of Connecticut's Department of Utility Control granted the Employer's request for a rate increase in 2001 based at least in part on the Employer's maintenance of certain "service quality measures". The service quality measures applicable to the service employees require a response to gas leaks within 30 minutes during normal business hours, and within 45 minutes at all other times. In addition, service employees are required to perform certain types of service work during two-hour and four-hour appointment windows. In assigning and monitoring the service employee's work, the dispatchers seek to insure that these service quality measures are met. In the event that the Employer fails to satisfy its service quality measures, the Employer is subject to monetary fines as well as reopening of the rate increase decision. However, there is no evidence or claim that the dispatchers are responsible for reporting instances where service employees fail to meet the above-described service quality measures, or that the dispatchers are held accountable for a service employee's failure to meet the service quality measures.

All customer calls requesting service are received by the Employer's customer call center from 7:00 am to 6:30 pm during the summer, and 7:00 am to 9:00 pm during the winter. The customer call center is staffed by customer relations representatives, who are members of the production unit. During the remaining hours, customer calls for service are received directly by the dispatchers. However, the overwhelming majority of calls requesting service, both regular and emergency, are received directly by the customer call center.

When the customer call center receives a customer call for service, an appointment is scheduled for such service, and the appointment is entered into the computer system, known as CIS, or "computer inquiry system". The dispatchers subsequently access that information from the CIS in order to assign the work. When the customer call center receives a customer call for emergency service, primarily consisting of gas leaks, the customer call center immediately transmits the information to the dispatchers via the CIS, and the dispatchers immediately assign the work.

When the dispatchers receive a request for service directly from a customer, they similarly schedule an appointment with the customer, enter the information into the CIS, and subsequently access that information in order to assign the work. Calls for emergency service received directly by the dispatchers are entered into the CIS and immediately assigned.

All service work is initially assigned to service employees by a computer scheduling program known as CAD, or “computer aided dispatching”. CAD, which was instituted in 1986, utilizes an “auto route build” that relies upon certain criteria to assign the work, including the geographical location of the work, the geographical location of available service employees, the type of work and required skills, and the amount of time that the work should take to complete. With regard to the latter, the Employer maintains a list of four-digit codes that represent each of the approximately 500 types of work that may be assigned to the service employees. That list also contains the pre-determined length of time that each work assignment should take the service employee to complete, as well as a pre-determined priority rating code for each type of work. Approximately 50-60% of the work is assigned to service employees by CAD.

The dispatchers on the evening and night shifts then utilize CAD to assign the remaining work, and also modify the CAD-scheduled work as necessary. In this regard, the two dispatchers on the evening shift initially review the CAD-generated schedule for the next day. They make any necessary modifications to the scheduled work to insure, for example, that a work order requiring plumbing skills has been assigned to a service employee with a plumber’s license. In this regard, each dispatcher relies upon a list prepared by the Employer setting forth the licenses possessed by each available service employee. The same list is programmed into CAD. There is no evidence or claim that in assigning work to service employees, the dispatchers rely upon their own knowledge of the work experience or abilities of particular service employees, other than the service employee’s license as described above.

The dispatchers will also modify the CAD-scheduled work, and assign the remaining work, to insure that each service employee will be able to complete their assignments in the allotted time and during the allotted window period, and to insure that each service employee has the right mix of low priority and high priority jobs. In doing so, they utilize the same list of job codes setting forth the job length and priority,

as described above. The dispatcher on the night shift will further review and modify the schedule as necessary, primarily by assigning work orders that are received after the evening shift. They also take into account anticipated absences due to vacations or sick leave, and modify the schedule accordingly.

Upon their arrival at work at the outset of the day shift, the service employees receive a print-out of their assigned work for that shift. Such information is also available on the computers located in their truck. There are approximately 50-60 service employees assigned to the day shift, so each day shift dispatcher is responsible for monitoring about 25-30 service employees. The dispatchers monitor the work almost exclusively by computer. They also have radio contact with each service employee. In this regard, service employees enter information into their computers that reveal exactly where they are and what they are doing at all times. This information would show, for example, that a service employee is “en route” to an assignment; that they have arrived at an assignment and have begun the work; that their work has been “interrupted” due to the need for parts, equipment or supplies; that they are “available” for additional work; or that they are on break. The dispatchers utilize this information primarily for the purpose of assigning additional work, as well as emergency calls, that come in during the course of the shift. Thus, for example, if an additional work order needs to be assigned, the dispatcher will assign it to a service employee who the dispatcher believes will be able to begin the assignment within the designated window period and complete the assignment within the allotted time, and prior to the end of the shift so that as little overtime as possible is incurred. This may also require the dispatcher to remove a previously assigned work order from one service employee and assign it to another service employee, or return the work order “to the board” for assignment on a later shift. In assigning such additional work, the dispatcher must also take into consideration whether the particular work order will require the assigned service employee to have a particular license. In performing this function, the dispatcher relies exclusively upon the list of licenses held by each serviceman, as described above.

The assignment of emergency work (primarily gas leaks) during the course of the day shift is slightly different. In this regard, all emergency work is assigned to the closest available service employee, without regard to licensing requirements. Thus, when the dispatcher receives an emergency call, he utilizes the computer to locate the service

employee who is closest to the emergency and most available to handle it. For example, if there are two service employees who are the same distance from the emergency, but one is in the middle of a work order and the other has just completed his work, the dispatcher will assign it to the latter. Another example would be two service employees who can respond to a leak within the required 30-minute period, but one is en route to an assignment that has to begin within 30-minutes in order to satisfy the designated window period, but the other service employee is en route to an all-day assignment. In that instance, the dispatcher would assign the emergency to the service employee with the all-day assignment, in order to avoid the other service employee missing his designated window period. In the event that all service employees are in the midst of their assigned work, the dispatcher will simply assign it to the closest service employee. Although a service employee may question an emergency assignment, and may ask the dispatcher to assign someone else, ultimately the dispatcher can require the closest available service employee to handle the emergency. In the event that a service employee refuses to take an emergency assignment, the dispatcher can take no action other than reporting it to the service employee's immediate supervisor, and would have no further involvement in the matter. However, there is no evidence that such an event has ever occurred.

In the course of the day shift, the dispatchers may determine that no further regular service work can be assigned to service employees on that shift. In such an event, the dispatcher will consult with Dispatch Office Supervisor Putnam and recommend "closing the board", i.e., not accept any further work orders for that shift from the customer call center. Putnam usually approves such recommendations. The "board" can also be partially closed, i.e., certain types of work orders will be accepted and others not accepted. Any work that is not accepted on the day shift due to the board being closed or partially closed will be rolled over to a later shift for assignment. It is also possible that a closed or partially closed board may be re-opened in the course of the day shift, once again based upon the recommendation of the dispatcher and with Putnam's approval.

Service employees on the day shift may have to work overtime in order to complete their assigned work. If the work involves an emergency, there is no requirement that such overtime be approved. However, if it involves regular service

work, the service employee will communicate with the dispatcher to determine whether he should work beyond the end of his shift. In such circumstances, the dispatcher will consult with Putnam to determine whether the overtime should be approved. The overwhelming majority of the dispatcher's recommendations as to whether a service employee should work beyond the end of his shift to complete an assignment are approved by Putnam. However, in those circumstances where Putnam has previously informed the dispatchers that no overtime will be approved for that shift, the dispatcher will inform the service employee and then arrange for the work to be completed by a service employee on the next shift, or on the following day.

Additional service employees may have to be called in on the day shift in order to complete all regular service and emergency work. Once again, the dispatcher makes such a recommendation to Putnam, who usually approves it. Once the dispatcher has received Putnam's approval to call in additional service employees, the dispatcher utilizes a weekly overtime list that is prepared pursuant to the collective bargaining agreement covering the production unit. The dispatcher contacts the service employee with the least amount of overtime. If that employee is not available, the dispatcher will continue calling employees on the list with the least amount of overtime until he secures a sufficient number of service employees to work the available overtime. There is no evidence that the dispatcher can require service employees to work overtime.

The evening and night shifts generally operate in the same manner as the day shift, except that there are far fewer service employees assigned to each shift. In this regard, there are only six service employees assigned to the evening shift, and one assigned to the night shift. In addition, Putnam is only present in the dispatch office for the first hour of the evening shift, and is never present for the night shift. As a result, dispatchers on the evening and night shift generally do not seek Putnam's prior approval to close or open the board, permit service employees to work overtime to complete their assigned work, or to call in additional service employees. However, it appears that such events occur infrequently on the evening and night shifts. In this regard, the one service employee on the night shift almost exclusively handles emergency work, for which there is no requirement for advanced overtime approval. Moreover, either Putnam or other on-call management personnel are always available by telephone during the evening and night shifts in the event that a dispatcher wishes to

seek their approval before authorizing overtime or calling in additional service employees. Dispatchers on the evening and night shifts may also contact Putnam or the on-call supervisor in the event of unusual emergency situations, especially those involving the media, or where a customer insists upon speaking to a supervisor.

The only written instructions or guidelines in the record upon which the dispatchers rely in performing their work is entitled “Day Shift Duties”, which states the following:

1. Review route sheets of each man to ascertain workload assigned in the field, number of appointments men have, types of jobs that are assigned, etc. Read comments on jobs.
2. Peruse the Unassigned Order Display (UOD) to ascertain workload that is pending to be assigned to the field, types of jobs, number of jobs, appointments, etc.
3. Review all of the daily notes, vacation list, sick list, special projects, light duty, etc. to determine the amount of workforce you will have at your disposal for the day.
4. Using all the information you have gathered from the above steps make a decision as to what types (keep in mind priorities on different types of work) and the amount of work you will be accepting during the day. Notify CRC of this information via the AMSG screen and the speaker system.
5. Update the CIS schedule minutes for each category to reflect the types of work and the amount of work you will be accepting to coincide with the AMSG screen.
6. On a regular basis throughout the day each dispatcher will monitor the incoming workload on the UOD, the progress all field technicians are making on the assigned work and make all necessary adjustments to the CIS schedule and CRC notifications in order to maintain our goal of doing as many jobs as possible with minimal to no overtime expenses incurred.
7. Make sure that all men are logging on by 08:15. If they are not, determine why.
8. Make sure all men are enroute to their first job no later than 08:30. If not, determine why. Contact their supervisor if you need to.
9. Report any unusual situations or problems to management.

10. If determined that overtime will be needed, or certain shifts need to be covered take the necessary steps to fulfill this need, following established overtime guidelines. Any doubt on the procedures – ASK.

A recent job posting for the dispatcher position listed only the following “duties and responsibilities”:

Coordinate the daily activities of customer service field personnel. Through the use of automated dispatching equipment and customer information systems, direct field activities as requested by customers, municipal officials, and company employees. Maintain an expert knowledge of both the CIS and CAD systems. Make spontaneous decisions based on customer demand, experience, and existing conditions while adhering to company policies and procedures.

The qualifications for the dispatcher position are listed as “[h]igh school education. Previous experience in a high pressure dispatching environment and/or three years industry-related experience is desirable.”

Although the dispatchers are paid a salary of between \$50,500 and approximately \$60,000, they are paid for overtime at time and one-half their hourly rate. More specifically, four of the seven dispatchers were raised to the \$50,500 salary in June 2005, with the remaining three dispatchers paid an unspecified salary up to the \$60,000 level. Thus, the hourly wage rate for the dispatchers ranges from \$24.27 to \$29.32. In comparison, the hourly wage rate for the distribution dispatchers, in accordance with the collective-bargaining agreement covering the production unit, is \$22.34 to 26.21, which is similar to the wage range for many of the service employees. The dispatchers receive the same benefits as all other non-union employees, including eligibility for group incentive and individual merit bonuses. Dispatchers do not attend supervisory or management meetings.

Each year the Employer establishes certain “objectives” that must be met by the customer service department. The 2005 “objectives”, which are set forth on a “mid-year employee self-assessment form” completed by each dispatcher, states the following four objectives that are applicable to most employees and supervisors in the customer service department:

1. Achieve the CNG C/S revenue budget of \$7,015,000.00. A rating of 3 will be awarded if this amount is exceeded, a rating of 2 if between \$6,900,000.00-\$7,015,000.00, and a rating of 1 if below \$6,900,000.00.

2. Achieve the Leak Response, Service Call Responsiveness and the Customer satisfaction survey SQM target. Exceeding the minimum amount of each measure by 1 point will result in a rating of 3, meeting it will result in a 2, not meeting these SQM's will result in a 1.
3. Reduce the combined total of 2004's actual field overtime hours for the Htfd meter reps and service reps for 2005. A reduction of hours between 6-10% will result in a rating of 3, 1-5% rating of 2 and no reduction will result in a rating of 1. Total 2004 hours: 13,042.
4. Removal of small and large inactive meters. If more than 2000 inactive meters are removed a rating of 3 will be given, between 1,400-2,000 a 2 will be given, less than 1,400 will result in a 1.

The same objectives, with corresponding rating points, will appear on the annual appraisal for each dispatcher. Approximately 75% of each dispatcher's annual appraisal rating will be determined by whether and to what extent the objectives are met. The remaining 25% is based upon their individual job performance, including attitude, contributions to the overall operation of their department, and special projects. As noted above, the dispatchers may receive individual merit bonuses based upon their annual appraisal.

Although not entirely clear, it appears that all employees in the production unit either work out of or at the Meadow St. facility, and that all employees at the Meadow St. facility share the same cafeteria and break room. The distribution dispatchers are located in the same office as the dispatchers, and are directly supervised by Putnam. After 4:00 pm Monday through Friday and on weekends, incoming calls that would normally be received by the distribution dispatchers are handled by the dispatchers. The dispatchers may also assist the distribution dispatchers in performing their work during the course of the regular work day. In this regard, the distribution dispatchers are generally responsible for transmitting work assignments to production unit employees who install and maintain the Employer's gas distribution pipes and mains.

II. CONCLUSION

It is well established that the burden of proving supervisory status is on the party asserting it. *Kentucky River Community Care v. NLRB*, 532 U.S. 706 (2001). Based upon the foregoing and the record as a whole, I find that the Employer has failed to

satisfy its burden of establishing that the dispatchers possess and exercise supervisory authority within the meaning of Section 2(11) of the Act. In reaching this conclusion, I note the undisputed absence of any evidence that the dispatchers have the authority, in the interest of the Employer, to hire, transfer, suspend, layoff, recall, promote, discharge, reward or discipline other employees, or to adjust their grievances, or to effectively recommend any of these actions using independent judgment. In addition, and contrary to the Employer's contention, there is no evidence that the dispatchers direct the work of other employees.¹ In this regard, the dispatchers merely assign service employees to perform service or emergency work, with no further involvement in or oversight of the actual work performed by the service employees. They do not instruct or direct service employees to perform particular tasks, nor do they transmit information to the service employees as to how they should perform their work. Moreover, there is no evidence that the dispatchers are answerable for the actual work or conduct of the service employees. See *Northeast Utilities Service Company v. NLRB*, 35 F.3d 621, 625-626 (1st Cir. 1994). They are not rated or evaluated with respect to the actual work performed by the service employees, nor is there any evidence that any dispatcher has ever been disciplined for failing to properly direct the service employees' work.²

Thus, the only arguable basis for finding that the dispatchers are supervisors is their assignment of work to service employees. In this regard, I find that the dispatchers' authority to assign the work performed by service employees, and to re-assign service employees to other work in response to incoming service and emergency calls, is routine in nature and does not require the exercise of independent judgment. See *N.L.R.B. v. Meenan Oil Co.*, 139 F.3d 311 (2nd Cir. 1998); *Express Messenger Systems*,

¹ In the absence of such evidence, it is unnecessary to apply the Board's decision in *Mississippi Power and Light Co.*, 328 NLRB 965 (1999), in which it reversed *Big Rivers Electric Corp.*, 266 NLRB 380 (1983) regarding the supervisory status of dispatchers who did direct the work of field employees involved in the maintenance and repair of high-voltage electric power lines.

² The mere fact that the dispatchers are evaluated with respect to whether the customer service department satisfies certain Employer-established "objectives", and that the dispatchers and service employees are in part responsible for whether those objectives are met, does not without more support the Employer's contention that the dispatchers are thereby answerable for the actual work performed by the service employees. In this regard, there is no evidence that any dispatchers have been adversely affected by the failure of the customer service department, or any particular service employee, to satisfy such objectives.

Inc., 301 NLRB 651, 654-655 and fn. 11 (1991); *Interstate Motor Freight System*, 227 NLRB 1167 (1977); *Carey Transportation, Inc.*, 119 NLRB 332 (1957); *New England Transportation Co.*, 90 NLRB 539 (1950). In reaching this conclusion, I note particularly that the assignment and reassignment of work to service employees, and the authorization of service employees to work overtime, is strictly guided by well-established standards and procedures that leave the dispatchers with very little real discretion in performing their job. Indeed, one long-term dispatcher aptly described her duties and responsibilities as requiring nothing more than “common sense”. See *B.P. Oil, Inc.*, 256 NLRB 1107, 1109 (1981). The fact that the majority of work assignments are made pursuant to a computer program, and that the dispatchers utilize the same factors and standards as the computer program in assigning and reassigning the remaining work, further reinforces the routine and non-discretionary nature of their job duties and responsibilities. Moreover, even in those circumstances where the dispatcher effectively determines that additional service employees must be called in to work, the dispatcher has no discretion in determining who will work the overtime. See *Interstate Motor Freight System*, 227 NLRB at 1168. I also note that there is always a designated supervisor on-call who may be contacted should non-routine situations arise. See *Interstate Motor Freight System, supra*; *Chevron Shipping Co.*, 317 NLRB 379, 381 (1995).³

Accordingly, I find that the customer service dispatch analysts are not supervisors within the meaning of Section 2(11) of the Act.

As noted above, the Employer contends that if the dispatchers are found not to be supervisors under the Act, an election must be directed in a unit limited to the dispatchers. In this regard, the Employer does not contend that a unit of dispatchers is the only appropriate unit, or that it would be inappropriate to include them in the production unit. Rather, the Employer contends that because the petition seeks a unit

³ There is no merit to the Employer’s contention that I am bound by the Regional Director’s conclusion in Case No. 39-UC-1 that the dispatchers are supervisors under the Act. In this regard, I note that the Regional Director originally concluded in Case No. 1-RC-13950 that the dispatchers were not supervisors, and that his contrary conclusion in Case No. 39-UC-1 resulted from undisputed additions to the dispatchers’ job duties and responsibilities, including the authority to discipline and discharge employees, and adjust their grievances. The record in the instant case, however, clearly establishes that significant changes have again been made to the dispatcher’s duties and responsibilities during the past 25 years, including, most importantly, the removal of their authority to discipline, discharge, and evaluate employees, and adjust their grievances.

limited to the dispatchers, a question concerning representation has arisen regarding those employees, and only an election limited to that unit can be directed. Otherwise, according to the Employer, the Petitioner would be accomplishing through an RC petition what properly should have been sought through a unit clarification (UC) petition.

Contrary to the Employer's contention, the Board routinely directs self-determination elections where an incumbent union seeks to add a group of previously unrepresented employees to its existing unit. See *Warner-Lambert Co.*, 298 NLRB 993 (1990); *New England Transportation Co.*, supra. Moreover, the evidence clearly establishes the appropriateness of including the dispatchers in the production unit. In this regard, I note that the dispatchers have substantial work-related contact with production unit employees, and are subject to similar terms and conditions of employment and common supervision. Moreover, the inclusion of the dispatchers is consistent with the previous collective bargaining history when they were included in the unit.

Accordingly, I find that the following employees of the Employer constitute an appropriate voting group for the purposes of determining whether they desire to be represented in the unit currently represented by the Petitioner:

All full-time and regular part-time customer service dispatch analysts employed by the Employer; but excluding all other employees and guards, professional employees and supervisors as defined in the Act.

In view of the above, my unit determination is based on the results of the vote among the employees in the appropriate voting group. Thus, I find that if a majority of the voting group vote for inclusion in the unit currently represented by the Petitioner, the following employees will constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time production and distribution and commercial office (customer accounting) employees, including janitors, meter readers, distribution dispatchers, and customer service dispatch analysts, employed by the Employer at its Hartford, East Hartford, and Rocky Hill, Connecticut facilities, excluding general accounting division employees, sales department employees, executives, secretaries to executives, and guards, professional employees and supervisors as defined in the National Labor Relations Act.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted among the employees in the appropriate voting group at the time and place set forth in the notices of election to be issued subsequently.

Eligible to vote: those employees in the appropriate voting group who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were in the military services of the United States, ill, on vacation, or temporarily laid off; and employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period, and their replacements.

Ineligible to vote: employees who have quit or been discharged for cause since the designated payroll period; employees engaged in a strike who have been discharged for cause since the strike's commencement and who have not been rehired or reinstated before the election date; and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.

The eligible employees shall vote whether or not they desire to be represented for collective bargaining purposes by Connecticut Independent Utility Workers, Local 12924. If a majority of valid ballots are cast for the Petitioner, they will be taken to have indicated the employees' desire to be included in the existing unit represented by the Petitioner. If a majority of valid ballots are not cast for representation, they will be taken to have indicated the employees' desire to remain unrepresented.

To ensure that all eligible employees have the opportunity to be informed of the issues in the exercise of their statutory rights to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within seven (7) days of the date of this Decision and Direction of Election, the Employer shall file with the undersigned, an eligibility list containing the *full* names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359 (1994). The undersigned shall make the list available to all parties to the election. In order to be

timely filed, such list must be received in the Regional office, 280 Trumbull Street, 280 Trumbull Street, 21st Floor, Hartford, Connecticut 06103, on or before October 13, 2005. No extension of time to file these lists shall be granted except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

Right to Request Review

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570. This request must be received by the Board in Washington by October 20, 2005.

Dated at Hartford, Connecticut this 6th day of October, 2005.

Peter B. Hoffman, Regional Director
Region 34
National Labor Relations Board
Hartford, Connecticut